

Marina Coast Water District

District Offices  
11 Reservation Road  
Marina, California

Special Board Meeting  
April 8, 2011  
1:00 p.m.

**Minutes**

1. Call to Order:

President Lee called the meeting to order at 1:00 p.m. on April 8, 2011.

2. Roll Call:

Board Members Present:

Bill Lee – President  
Howard Gustafson  
Kenneth K. Nishi

Board Members Absent:

Dan Burns – Vice President  
Jan Shriner

Staff Members Present:

Jim Heitzman, General Manager  
Lloyd Lowrey, Legal Counsel  
Mark Fogelman, Legal Counsel - via telephone  
Carl Niizawa, Deputy General Manager/District Engineer  
Paula Riso, Executive Assistant/Board Clerk

Audience Members:

None.

The Board entered into closed session at 1:00 p.m.

3. Closed Session:

- A. Pursuant to Government Code 54956.9  
Conference with Legal Counsel – Existing Litigation  
(Subdivision (a) of Section 54956.9)  
Ag Land Trust v. Marina Coast Water District and Does 1-100, Monterey County  
Superior Court Case No. M105019 (First Amended Petition for Writ of Mandate and  
Complaint for Declaratory Relief)

President Lee reconvened the meeting to open session at 2:01 p.m.

4. Possible Action on Closed Session Item:

Mr. Lloyd Lowrey, Legal Counsel, reported that there was a conference with legal counsel concerning the matter with Ag Land Trust v. Marina Coast Water District. There have been no decisions made in closed session and the Board has come into open session to discuss the possibility of taking action with respect to that lawsuit.

Director Gustafson made a motion to follow the advice of legal counsel. Director Nishi seconded the motion. Mr. Lowrey asked for clarification on the motion. Director Nishi asked Mr. Mark Fogelman, Legal Counsel, to provide the recommended verbiage. Mr. Fogelman provided the following verbiage for the motion:

Mr. Fogelman is requesting authorization to proceed to file a petition for review in the California Supreme Court with respect to the Marina Coast Water District v. Superior Court Writ Matter that was just decided in the 6<sup>th</sup> Appellate District, and to ask the court to grant review and to transfer the matter back to the Court of Appeal for the issuance of an alternative writ and a decision on the merits.

Mr. Lowrey asked if the verbiage provided by Mr. Fogelman was the motion made by Director Gustafson and seconded by Director Nishi. Directors Gustafson and Nishi answered affirmatively.

The motion was passed.

Director Gustafson	-	Yes	Vice President Burns	-	Absent
Director Shriner	-	Absent	President Lee	-	Yes
Director Nishi	-	Yes			

5. Director's Comments:

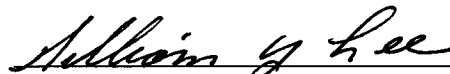
President Lee commented that things have been happening and are continuing to happen. For instance, when the meetings are televised, it looks as though the recorded meetings are being edited. Director Nishi interrupted with a point of order and suggested that President Lee make the comments when all the Board members are present. President Lee concurred.

Special Board Meeting  
April 8, 2011  
Page 3 of 3

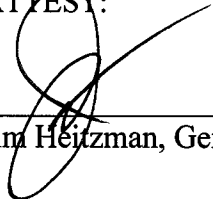
6. Adjournment:

The meeting was adjourned at 2:06 p.m.

APPROVED:

  
\_\_\_\_\_  
William Y. Lee, President

ATTEST:

  
\_\_\_\_\_  
Jim Heitzman, General Manager